

REMARKS

Claims 1-23 were examined and reported in the Office Action. Claims 1-4 are rejected. Claims 5-23 are objected to. Claims 4-7, 9, 12-14 and 18-22 have been amended. Claims 1-23 remain.

Applicant requests reconsideration of the application in view of the amendments and the following remarks.

It is asserted in the Office Action that Claims 5-23 are objected to under 37 CFR 1.75(c) as being in improper form.

In response, Applicant has amended Claims 5-23 to overcome the 37 C.F.R. § 1.75(c) objection.

Approval is respectfully requested.

It is asserted in the Office Action that Claims 1-4 are rejected under 35 USC 103(a) as being unpatentable over Grim '602.

In response Applicant notes that Claim 1 is both new and inventive in view of Grim (US 5,445,602). First, the claimed invention differs from Grim in that the flexible area of the shell is made from a styrene ethylene butylenes styrene (SEBS) block copolymer, and, second, the splint of Grim and the splint of the invention differ in that the shell of the invention is composed of a single element comprising one flexible area and a rigid part as set forth in Claim 1. Grim's shell (support member 18 and 20) on the other hand is a single rigid part with no flexible area.

Having a shell with a flexible area and a rigid part composed of a single element is very advantageous. As the shell is made in a single part, from a single mould, the flexible part of the shell does not tear off. Devices of the prior art (see page 5 lines 12-14), such as the device disclosed in Grim, wherein the flexible portion of the splint is a separate element bonded to the rigid shell (col. 5, lines 60-66), can result in the flexible part tearing off.

Such a shell according to the invention further improves the feeling of comfort for a user wearing the splint barefoot (see page 5 lines 10-11).

In addition, manufacturing of a shell composed of a single element that comprises both a flexible area and a rigid part is made possible by the use of a styrene ethylene butylenes styrene (SEBS) block copolymer, wherein, such material enables formation of both the flexible portion and the rigid portion by use of a single mould (see page 8 lines 14-28).

As mentioned, Grim discloses a splint having a rigid shell (18;20) to which a flexible material is bonded to form a flexible padded material (95).

Consequently, the flexible portion is a distinct element that is bonded to the rigid support member of the shell, by use of an adhesive or by thermal bonding for example (see col. 5 lines 60-66 of Grim).

Assessing the inventiveness of the claimed invention, it has first to be mentioned that there is no particular incentive in Grim for the person skilled in the art for changing the material used for forming the flexible portion of the splint. There is in particular no incentive for using a styrene ethylene butylenes styrene (SEBS) block copolymer.

Further, if the person skilled in the art would have eventually decided to use a styrene ethylene butylenes styrene (SEBS) block copolymer for forming the flexible portion of the splint, he would have not changed the manufacturing of the splint of Grim to form the shell as a single element including the flexible portion.

In particular, there is no incentive for the person skilled in the art to modify the whole process manufacturing of Grim's shell to form it as a single element.

For the reasons given above, Applicant notes that the invention of claim 1 is inventive in view of Grim, and, accordingly, as claim 1 is both novel and inventive, the depending claims should also be accepted as being novel and inventive.

Accordingly, reconsideration and withdrawal of the rejection to Claims 1-4 under 35 USC 103(a) as being unpatentable over Grim '602, is respectively requested.

Accordingly, Applicant submits that the claims pending following entry of this amendment, namely Claims 1-23, are now in condition for allowance, which early action is requested.

If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. If a telephone interview would expedite the prosecution of this Application, the Examiner is invited to contact the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date:

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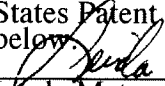
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